

6-8.000

POST-JUDGMENT COLLECTION MATTERS

- 6-8.010 Introduction
 - 6-8.100 Responsibility of the Tax Division
 - 6-8.200 Responsibility of the United States Attorney
 - 6-8.300 Compromise Authority of United States Attorneys
 - 6-8.400 Differences Between Tax Judgments and Other Civil Judgments -- Collection Procedures
 - 6-8.420 Differences Between Tax Judgments and Other Civil Judgments -- Availability of IRS Personnel to Perform Collection Investigations
 - 6-8.430 Differences Between Tax Judgments and Other Civil Judgments -- Availability of Tax Returns and Tax Return Information
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Introduction

Once a judgment is obtained, the sooner collection activity begins, the more likely it is that it may be collected in full. The greater the delay, the greater the likelihood that assets previously available for collection will be dissipated or disappear. Accordingly, every effort must be made to effect collection as quickly as may be feasible.

There are substantial differences between the collection of tax judgments and collection of other civil judgments. These differences are set forth and explained in the Tax Division's *Judgment Collection Manual*.

6-8.100 Responsibility of the Tax Division

After a money judgment has been entered in favor of the United States, either in a suit originating as a collection matter or on a counterclaim in a refund suit, the Civil Trial Section has the initial responsibility to pursue collection of the judgment promptly and vigorously.

For approximately a nine-month period after a judgment has been entered, the trial attorney will follow the collection steps outlined in the Tax Division Judgment Collection Manual. During this period of initial collection activity, the Tax Division will have the primary responsibility for collecting the judgment. The Tax Division, however, may request the assistance of the United States Attorney (e.g., to register (record, docket, or index) the judgment).

After the initial collection activity has been completed or, if later, when all pending litigation in the case has been terminated, the Tax Division will close its file on the case and refer the judgment to the IRS or to the United States Attorney for further collection efforts. If, however, it should subsequently appear that litigation is necessary to effect collection of the judgment, the Tax Division may elect to conduct the litigation.

6-8.200 Responsibility of the United States Attorney

Under Tax Division Directive No. 105, it is important to distinguish between two categories of cases to understand the allocation of responsibilities between the Tax Division and the United States Attorney for the collection of tax judgments:

- A. Cases formally referred to the USAOs; and
- B. Cases as to which the USAOs may have open files, and be furnishing assistance to the Tax Division, but which have not been formally referred to the United States Attorney.

A judgment is formally referred to the United States Attorney only when a letter states that the case is being formally referred.

After the Tax Division has formally referred a judgment to the United States Attorney, the United States Attorney will have the primary responsibility within the Department for further collection efforts. However, if it develops that litigation is necessary to effect collection of the judgment, the Tax Division may elect to conduct the litigation.

The United States Attorney should take whatever steps are necessary to effect collection and to protect the government's interests. To assist the United States Attorney in the collection of the judgment, at the same time that the Tax Division refers the case to the United States Attorney, the Tax Division will request the Special Procedures Function of the IRS District Director's office to advise the United States Attorney directly of the existence of potential assets for collection by procedures in aid of execution and to send the United States Attorney annually a copy of their Investigation Report of Judgment Debtor (Form 3347), if one is prepared. The Tax Division will also request the IRS, if it deems appropriate, to request the United States Attorney to extend the judgment lien.

The United States Attorney should advise the Tax Division if any problems arise as to which the Tax Division might be of assistance, including any possible differences of view that might arise between the USAO office and the IRS in connection with the handling of a case.

6-8.300 Compromise Authority of United States Attorneys

As provided in Tax Division Directive No. 105, the United States Attorney's are authorized to:

- A. Reject offers in compromise of judgments in favor of the government, regardless of amount;
- B. Accept offers in compromise of judgments in favor of the government where the amount of the judgment does not exceed \$300,000; and
- C. Terminate collection activity by that office as to judgments in favor of the government which do not exceed \$300,000 if the United States Attorney concludes that the judgment is uncollectible.

Such actions are authorized only for judgments formally referred to the United States Attorney for collection and require the concurrence in writing of the IRS.

The United States Attorney is required to refer to the Tax Division any offer to compromise a judgment (1) as to which a difference of opinion exists between the United States Attorney and the IRS, or (2) where the judgment exceeds \$300,000.

6-8.400 Differences Between Tax Judgments and Other Civil Judgments -- Collection Procedures

The Tax Division's *Judgment Collection Manual* should be consulted for an in depth discussion of special procedures for the collection of tax judgments that are not available for, or are different from, the procedures for

collecting other judgments in favor of the United States. For example, an IRS levy can be used to collect a tax judgment; the state exemption statutes are inapplicable to tax judgments; federal tax liens have special characteristics; and post-judgment interest on tax judgments accrues at a different rate than the normal judgment rate and is compounded daily.

6-8.420 Differences Between Tax Judgments and Other Civil Judgments -- Availability of IRS Personnel to Perform Collection Investigations

The personnel of the local IRS Special Procedures Function are trained in the collection of tax indebtedness and also have continuing access to financial data contained in subsequent tax returns of judgment debtors. To assist the United States Attorney in the collection of judgments, at the same time that the Tax Division refers a case to the United States Attorney, the Tax Division will request the Special Procedures Function to conduct investigations to determine if a source exists for satisfying the judgment and to advise the United States Attorney directly of the existence of potential assets, and to send the United States Attorney annually a copy of their Investigative Report of Judgment Debtor (Form 3347), if one is prepared.

The United States Attorney should request the Special Procedures Function to verify a financial statement submitted by a taxpayer in connection with an offer to compromise a judgment or in response to the United States Attorney's request for financial information.

6-8.430 Differences Between Tax Judgments and Other Civil Judgments -- Availability of Tax Returns and Tax Return Information

Pursuant to 26 U.S.C. § 6103(h)(2)(A), tax returns and return information of tax judgment debtors may be disclosed to United States Attorney for their use in the collection of tax judgments. Such returns and return information, however, are prohibited from disclosure in the collection of nontax judgments in favor of the United States, and extreme care must be used to assure that this distinction is observed.